

# EXHIBIT “C”

 **COPY**

1  
2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X  
5 KENNETH FRILANDO,

6 Plaintiff,

7 No. 18-5204

8 -against-

9 NEW YORK CITY TRANSIT AUTHORITY,  
10 and MANHATTAN and BRONX SURFACE  
11 OPERATING AUTHORITY  
Defendants.

12 -----X  
24 Union Square East  
New York, New York

13 February 13, 2019  
14 1:15 p.m.

15  
16 DEPOSITION of MICHAEL QUIERY, a 30(b)(6)  
17 witness for the Defendant, taken by the  
18 Plaintiff, pursuant to Notice, held at the above  
19 time and place, taken before Shechinah Jackson,  
20 a Shorthand Reporter and Notary Public of the  
21 State of New York.

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24 LH REPORTING SERVICE, INC.  
Computer-aided Transcription  
25 718-526-7100

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M. QUIERY

that you did not mention?

A. Not that I'm aware of.

Q. Okay. Did you review any policy documents?

A. No, not that I'm aware of.

Q. Could you, again just for the record, state your full name.

A. Michael Quiery.

Q. What is your current address?

A. 180 Livingston Street, Brooklyn, New York 11201.

Q. How are you employed?

A. Who am I employed by?

Q. Who are you employed by?

A. New York City Transit.

Q. What is your position?

A. Senior director.

Q. Is that of Testing, Selection and Classification?

A. Yes.

Q. What were your duties and responsibilities in that position?

A. I'm responsible for overseeing the development and administration for personal

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M. QUIERY

selection test for New York City Transit, the  
Manhattan and Bronx Surface Operating Authority  
and the MTA Bus Company.

Q. How long have you held that position?

A. For about four years.

Q. Do you know what the relationship is  
between the New York City Transit Authority and  
the MTA Bus Company?

A. Just that one MTA -- MABSTOA is a --  
loosely-termed as a subsidiary of New York City  
Transit.

Q. MABSTOA is separate from the MTA Bus  
Company; is that a separate entity from the MTA  
Bus Company?

A. As far as I'm aware of.

Q. Okay. New York City Transit is your  
director employer?

A. My actual payroll is with MABSTOA,  
Manhattan and Bronx Surface Transit Operating  
Authority.

Q. As part of your role, do you oversee  
the testing for positions for all three of  
these entities?

A. Right, correct.

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M. QUIERY

Q. Does the New York City Transit Authority make policies and procedures that MABSTOA have to follow?

A. In what context?

Q. I guess in any context that you are aware of?

A. So, in my work, MABSTOA follows, generally follows, the practices and procedures that New York City Transit Authority follows under civil service.

Q. Are you aware of ways in which the policies or practices of MABSTOA are, as it affects your job, are different from the New York City Transit Authority?

A. In particular ways, are you asking?

Q. Yes.

A. I'm hard-pressed to think of anything specifically that -- where the process is different. Not that I can think of offhand.

Q. Have you received training from the New York City Transit Authority in terms of providing reasonable accommodations for job candidates or prospective employees?

A. All employees receive annual training

1 M. QUIERY

2 A. No.

3 Q. Other than the online module that you  
4 described, are employees provided with any type  
5 of written materials on providing reasonable  
6 accommodations for individuals with  
7 disabilities?

8 A. The only written material would be  
9 anything that we are obligated to follow that's  
10 mandated the Department of Citywide  
11 Administrative Services.

12 Q. Where would you find those mandates?

13 A. If there's anything in writing, it  
14 would be in their personal rules and  
15 regulations for their exam procedures.

16 Q. Are the personal rules and regulations  
17 provided to your staff?

18 A. They're available to my staff, yes.

19 Q. Are your staff trained on their rules  
20 and regulations?

21 A. They are trained at some point on  
22 their rules and regs.

23 Q. Do you know when?

24 A. No.

25 Q. Do you know if the rules and

1 M. QUIERY

2 regulations contain specific provisions for  
3 providing accommodations for disabled  
4 individuals?

5 A. I don't.

6 Q. In terms of exam procedures, what are  
7 you referring to?

8 A. I'm sorry?

9 Q. You said that DCAS also provides them  
10 in the form of exam procedures; is that  
11 correct?

12 A. So, it would be -- yeah, they would  
13 have their examination procedures, just in  
14 terms of the administration of an exam, certain  
15 regulations that must be followed in terms of  
16 an exam administration.

17 Q. Where are these regulations found?

18 A. DCAS has them online, the regulations.

19 Q. Does DCAS provide training to your  
20 staff on the exam procedures?

21 A. No.

22 Q. Do you provide training to your staff  
23 on the DCAS exam procedures?

24 A. My managers have a copy of the  
25 procedures and they use them when training

1 M. QUIERY

2 before they publish to the public. I'm trying  
3 think if --

4 Q. Do they have any oversight rule in the  
5 actual administration of the exam? Do you have  
6 to submit any type of paperwork for them to  
7 review or anything of that nature?

8 MS. DOWNS: Objection.

9 A. No.

10 Q. So, they're -- beyond them reviewing  
11 the Notice of Exam paperwork, do they have any  
12 other rule in insuring compliance?

13 A. DCAS has complete oversight over  
14 everything that we do in examinations.

15 Q. Do DCAS employees ever come onto your  
16 site to make sure that your employees are  
17 complying with their regulations?

18 A. I can't remember if they did that.

19 Q. In what ways do you, in terms of  
20 providing accommodations for test takers, what  
21 role does DCAS play in that process?

22 A. Again, DCAS provides the oversight and  
23 the guidance through their written policies and  
24 practices.

25 Q. Does DCAS need to review requests for



1 M. QUIERY

2 Q. Have you ever trained staff members on  
3 how to order an ASL interpreter?

4 A. No.

5 Q. Do your staff members receive any  
6 formal training from DCAS directly?

7 A. Not formal training, no.

8 Q. So, would you refer to it as informal  
9 training?

10 MS. DOWNS: Objection.

11 A. I would refer to it as "guidance as  
12 needed."

13 Q. How are they trained to seek guidance  
14 from DCAS?

15 A. So, my staff performs functions under  
16 DCAS rules and regulations and policies. So,  
17 they're aware of how to perform their work.  
18 They will ask for guidance when they come  
19 across something that they're unfamiliar with  
20 it. And in those instances, they'll seek for  
21 guidance.

22 Q. Do you train them when they should  
23 seek guidance from DCAS?

24 A. Train them?

25 Q. Yes. Do you tell them -- do you,

1 M. QUIERY

2 Q. What is the -- turning back to the  
3 track worker exam. What is the procedure if  
4 someone needs to request an accommodation?

5 A. The exact procedure is something my  
6 staff would know better about. I have a  
7 familiarity with the procedure that the  
8 individual would make a request at the time of  
9 application. Then at some point -- I can't be  
10 certain on timing of it. But at some point  
11 later on, after the initial request, at the  
12 time of application they need to substantiate  
13 their request with written substantiations from  
14 a doctor or whomever.

15 Q. When you say, "substantiate the  
16 request," what do you mean by that?

17 A. So, if they're asking for an  
18 accommodation, they need to get some, have that  
19 substantiated by someone that's an expert in  
20 that field to say that they need that  
21 accommodation.

22 Q. Okay. If a deaf or hard of hearing  
23 person submitted an application with an  
24 audiology report that demonstrated that that  
25 individual was profoundly deaf, would that be

1 M. QUIERY

2 sufficient proof that that individual required  
3 an interpreter?

4 A. No. We would want to see the  
5 physician actually state that, that he needs an  
6 interpreter. We ask that they state the actual  
7 request for accommodation, not just the  
8 disability.

9 Q. Is that -- was that ever given --  
10 where did that procedure develop from?

11 A. That comes from DCAS.

12 Q. Is that in any sort of written form  
13 from DCAS?

14 A. I can't be certain. I'm certain --  
15 I'm pretty sure that it's written somewhere.  
16 But I can't be certain as to the document it's  
17 written. I believe it's on the instructions  
18 for a request for accommodation, on the  
19 applicant's instructions.

20 Q. Do you know the rationale for requiring  
21 someone with an obvious disability, such as  
22 deafness, to also obtain a doctor's note in  
23 addition to documentation that substantiates  
24 that disability?

25 MS. DOWNS: Objection.

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M. QUIERY

position?

A. Yes, it seems to.

Q. What are the qualifications for that position?

A. For train operator, the qualifications are a four-year high school diploma or educational equivalent. The educational equivalent has to be recognized by the State Department of Education or recognized as a credit-dating organization.

In addition to that, they must possess a motor vehicle driver's license valid in New York State and have one year full-time satisfactory work experience continuous with one employer.

Q. Is an applicant that applies to take the train operator exam required to qualify for these qualifications at the time that they apply to take the test?

A. Give me a second to read the notice.  
No. It says for the test they dont have to.

Let me say this, the qualifications are not verified prior to them not sitting for the test.

1 M. QUIERY

2 Q. When are their qualifications  
3 verified?

4 A. So, we look at their qualifications  
5 that they submitted with the application after  
6 the test is held. And we only look at the  
7 individuals who passed the written test to  
8 verify whether they meet the minimum  
9 qualification requirements.

10 Q. Are you familiar with the oral  
11 proficiency assessment?

12 A. Yes.

13 Q. Who conducts the oral proficiency  
14 assessment?

15 A. My staff.

16 Q. Which part of your staff?

17 A. The exam development group.

18 Q. How would your organization provide  
19 accommodations to a deaf or hard of hearing  
20 person for the oral proficiency assessment?

21 A. I can't answer that because we haven't  
22 -- as far as -- I haven't been asked that.

23 Q. If someone brought you -- if someone  
24 who is deaf or hard of hearing wanted to take  
25 the oral proficiency assessment, what would

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M. QUIERY

practice.

Q. What is the transit practice?

A. To follow the DCAS regulations and directives.

Q. How would that differ for the track worker position?

A. It wouldn't differ.

Q. Okay. Is the procedure for requesting accommodations for either those three positions different in any way?

A. Not that I'm aware of, no.

Q. Is the procedure for responding to a request for accommodations for either of those positions different in either way?

A. Again, not that I'm aware of.

Q. Did there come a time where you learned of pending applications from Kenneth Frilando?

A. Yes.

Q. When did you learn of those applications?

A. I can't be certain on the time frame.

Q. How did you learn?

A. I believe I heard from Michael Nigro.

1 M. QUIERY

2 C E R T I F I C A T E

3 STATE OF NEW YORK)

4 :SS


5 COUNTY OF NASSAU)

6  
7 I, SHECHINAH JACKSON, a Notary Public  
8 within and for the State of New York, do hereby  
9 certify:

10 That the witness whose examination is  
11 hereinbefore set forth was duly sworn and that  
12 such an examination is a true record of the  
13 testimony given by such a witness.

14 I further certify that I am not related to  
15 any of these parties to this action by blood or  
16 marriage, and that I am not in any way  
17 interested in the outcome of this matter.

18 IN WITNESS WHEREOF, I have hereunto set my  
19 hand this 13TH day of February, 2019.  
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23   
24 Shechinah Jackson  
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